



## Imaging Services Agreement

This contract is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the COUNTY OF SAN LUIS OBISPO (hereinafter referred to as "Customer") and BMI Imaging Systems, an independent contractor (hereinafter referred to as "BMI or Contractor").

WHEREAS, the County of San Luis Obispo has a need for special services to provide imaging for documents on file in the Assessor's Office; and

WHEREAS, Contractor is specially trained, experienced, expert and competent to perform such special services;

NOW THEREFORE, the parties mutually agree as follows:

### 1. Reproduction of Documents

BMI Imaging Systems, Inc., ("BMI") shall perform the services for Customer outlined in the attached Description of Services portion of this Agreement, subject to the following terms and conditions. The books, manuscripts, photographs, newspapers, periodicals, files, disks, tapes or other material provided by Customer shall be referred to as the "Documents." The products of digital or photographic reproduction processes shall be referred to as the "Image Product." BMI does not warrant that all customers Documents will be reproduced to the Image Product or that each reproduced image will be legible. BMI agrees to reprocess any missed or illegible Documents and, when determined by BMI to be technically possible, to insert the corrected or missing images into the Image Product. Customer must identify and return to BMI the appropriate missing or illegible Documents to BMI along with all Image Products within 60 days of the Image Product's availability to Customer. After such 60-day period, Customer agrees to pay for any retakes or corrections by Customer at BMI's then effective rates. Customer acknowledges that in order for BMI to perform services, Customer must make certain personnel or other resources available to BMI in a timely manner. Customer agrees that it will cooperate in providing information or personnel upon BMI's request, and Customer acknowledges that its failure to do so may prevent BMI from meeting any deadlines that may be designated in a Schedule of Work.

### 2. Transportation

Although some transportation of Documents and Image Product may be provided by BMI in furnishing services under this agreement, BMI is not and shall not be deemed a contract carrier and the limitations on liability and claims procedures outlined elsewhere in the Agreement shall apply to any such transportation services. In providing transportation of Documents or Image Product, BMI shall accept no liability for the loss or damage of Documents or Image Product beyond that which is detailed below.

### 3. Insurance and Liability

The parties shall maintain insurance in accordance with the following provisions.

**3.1 Insurance Maintained by Customer.** Customer shall maintain adequate property damage and loss insurance coverage or shall self-insure with respect to all Documents or other materials furnished by Customer to BMI. Customer acknowledges and agrees that it has unique knowledge of the value of the Documents and

therefore expressly represents that it is solely responsible for maintaining any insurance, in such amounts as it deems appropriate, covering Documents while Documents are within the care, custody, and control of BMI. Additionally, Customer declares the value of Documents, during any transporting, processing, storing or copying by BMI, is the value of the media itself (paper, disk, film) on which the Documents were originally provided to BMI.

**3.2 Insurance Maintained by BMI.** Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

3.2.1 Minimum Scope and Limits of Required Insurance Policies. The following policies shall be maintained with insurers authorized to do business in the State of California and shall be issued under forms of policies satisfactory to the County.

3.2.1.1 Commercial General Liability Insurance Policy ("CGL"): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

3.2.1.2 Automobile Liability Policy ("BAL"): ISO Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

3.2.1.3 Workers' Compensation ("WC"): Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. If Contractor will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage shall also include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the County as the Alternate Employer, and the endorsement form shall be modified to provide that County will receive not less than thirty (30) days advance written notice of cancellation of this coverage provision. If applicable to Contractor's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

\*If Contractor maintains higher limits than the minimums shown above, the County requires and shall be entitled to coverage for the higher limits maintained by the contractor.

3.2.2 Other Insurance Requirements. The insurance policies are to contain, or be endorsed to contain, the following provisions:

3.2.2.1 Additional Insured Status. The County, its officers, officials, employees, and volunteers are to be covered as insureds on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).

3.2.2.2 Primary Coverage. For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and



volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.10.2.3 Notice of Cancellation. Each insurance policy required above shall state that coverage shall not be canceled, except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the County.10.2.4 Failure to Maintain Insurance. Contractor's failure to maintain or to provide acceptable evidence that it maintains the required insurance shall constitute a material breach of the Contract, upon which the County immediately may withhold payments due to Contractor, and/or suspend or terminate this Contract. The County, at its sole discretion, may obtain damages from Contractor resulting from said breach.10.2.5 Waiver of Subrogation. Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

3.2.2.3 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the County. The County may require Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

3.2.2.4 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the County.

3.2.2.5 Claims Made Policies. If any of the required policies provide coverage on a claims-made basis:

3.2.2.5.1 Retroactive Date. The retroactive date of the insurance must be shown and must be before the date of the contract or the beginning of contract work.

3.2.2.5.2 Maintenance of Insurance. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

3.2.2.5.3 Cancellation of Coverage. If coverage is canceled or non-renewed, and not replaced with another *claims-made policy form with a retroactive date* prior to the contract effective date, Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

3.2.2.6 Separation of Insureds. All liability policies shall provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured versus insured exclusions or limitations.

3.2.2.7 Verification of Coverage. Contractor shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. Certificates and copies of any required endorsements shall be sent to:

Charron Sparks  
1055 Monterey St., Ste D360  
San Luis Obispo, CA 93408

3.2.2.8 Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

3.2.2.9 Special Risks or Circumstances. County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

BMI does not represent or warrant that its buildings are fireproof or the contents of the buildings (including the Documents and the Image Products) cannot be destroyed by fire.

Any claim for loss must be made by Customer within sixty (60) days of the date that Customer receives Image Product from BMI.

#### **4. Installation of Software**

BMI, in the course of performing services for the Customer, may be required to install software to Customer's workstation, server or other connected device. Customer agrees to have performed adequate prior and ongoing backup of all data and programs connected to any networked device onto which BMI will be loading software or data. BMI makes no claim as to the serviceability of the software and Customer accepts refund of the cost of the software license(s) as total compensation from BMI for any damages that might arise out of the use or installation of such software. BMI makes no other warranties express or implied, including without limitation the warranty of merchantability or fitness for a particular purpose. In no event shall BMI be liable for special, punitive, incidental or consequential damages even if it has been advised of the possibility before.

#### **5. Warranty of Contractor**

Contractor warrants that Contractor and each of the personnel employed or otherwise retained by Contractor are properly certified and licensed under the laws and regulations of the State of California to provide the special services herein agreed to.

#### **6. Charges**

All charges for services, together with any sales or other applicable tax, are due and payable no later than thirty (30) days after receipt of the invoice. Invoices will typically be provided monthly by US Mail for completed work. Unpaid accounts are subject to late payment charges or the lesser of 1-1/2% per month or the maximum rate permitted by law.

#### **7. Solicitation**

Customer agrees that they will not recruit, solicit, induce or otherwise contract with BMI personnel, whether employees of BMI or BMI contractors, for a period of 12 months following completion of any BMI provided services to client.

#### **8. Title/Court Order**

Customer represents and warrants that it owns, has acquired, or will acquire, all rights, title, interest, licenses and permissions necessary for BMI, its employees, agents and/or contractors to perform services for the Documents under this Agreement without violation or infringement of any third party right or agreement. In the event of any such actual or threatened violation or infringement, Customer shall be solely liable for all damages, costs and expenses (including attorneys' fees) arising from or related thereto and Customer agrees to indemnify, defend and hold BMI harmless from and against, any and all actions, claims, liability, damages, costs and expenses (including attorneys' fees) arising from or related to any such actual or threatened violation or infringement. Customer acknowledges and agrees that BMI may in its sole discretion suspend, refuse to perform or terminate services, in whole or in part, after the receipt of (i) a third



party allegation or complaint of a violation or infringement of any right or (ii) the receipt of an order of a court or other legal authority of competent jurisdiction to cease the performance of services related to the Documents. BMI may refuse access to the Documents or the Image Product to the Customer if a Court of legal jurisdiction should so order.

#### **9. Entire Agreement/Modification/Waiver**

This Agreement supersedes any prior agreements and understandings between the parties relating to the subject matter of this Agreement. No supplement, amendment or modification of this Agreement shall be binding unless executed in writing by all of the parties. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver of this Agreement and shall not be binding unless executed by the party making the waiver.

#### **10. Assignment**

Inasmuch as this Agreement is intended to secure the specialized services of BMI, BMI may not assign, transfer, delegate or sublet any interest herein without the prior written consent of Customer and any such assignment, transfer, delegation or sublease without Customer's prior written consent shall be considered null and void.

#### **11. Notices**

Any notice required or permitted to be given under this Agreement shall be in writing and shall be effective upon receipt by the party to whom notice is given. Notices shall be sent as follows:

##### **To the County:**

Charron Sparks  
Assistant County Assessor  
1055 Monterey St., Ste D360  
San Luis Obispo, CA 93408

##### **To BMI:**

BMI Imaging Services  
749 W Stadium Lane  
Sacramento, CA 95834

#### **12. Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts made and to be performed in California, except that this Agreement shall be construed in accordance with the intention of the parties and without regard to California Civil Code Section 1654.

#### **13. State Audit**

Pursuant to California Government Code section 8546.7, every County contract involving the expenditure of funds in excess of ten thousand dollars (\$10,000) is subject to examination and audit of the State auditor for a period of three years after final payment under the contract. Contractor shall permit the State Auditor to have access to any pertinent books, documents, papers and records for the purpose of said audit.

**14. Nonappropriation of Funds**

In the event that the term of this contract extends into fiscal years subsequent to that in which it was approved, continuation of the contract is contingent on the appropriation of funds by the San Luis Obispo County Board of Supervisors or, if applicable, the provision of State or Federal funding source. If County notifies Contractor in writing that the funds for this Agreement have not been appropriated or provided, this Agreement will terminate. In such an event, the County shall have no further liability to pay any funds to Contractor or to furnish any other consideration under this Agreement, and Contractor shall not be obligated to perform any provision of this Agreement or to provide services intended to be funded pursuant to this Agreement. If partial funds are appropriated or provided, the County shall have the option to either cancel this Agreement with no liability to the County or offer a contract amendment to Contractor to reflect the reduced amount.

IN WITNESS WHEREOF, County and BMI have executed this Agreement on the day and year first hereinabove set forth.

COUNTY OF SAN LUIS OBISPO:

CONTRACTOR:

By: \_\_\_\_\_  
Chairman of the Board of Supervisors

  
Name WILLIAM WHITNEY

ATTEST:

President  
Title

\_\_\_\_\_  
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGAL  
EFFECT:

RITA L. NEAL  
County Counsel

By:   
Deputy County Counsel

Date: 2/25/16

## Description of Services



January 21, 2016

Ms. Linda Wleklinski  
Assessor's Office  
County of San Luis Obispo  
1055 Monterey Street, Room D120  
San Luis Obispo, CA 93408

Dear Linda,

BMI appreciates the opportunity to provide you with upgrade services to your Digital Reel System. Included with this cover letter are the following items:

- Scanning of hard copy Deed Books
- Expansion of Hosted Services
- Additional Software Features

We look forward to working with you and your staff on this project. If you have any questions or need any additional information, please contact me any time. Our toll free number is 800.488.3456 x405.

Sincerely,

A handwritten signature in dark ink, appearing to read 'M. D. Aufranc', followed by a horizontal line.

Michael D. Aufranc  
BMI Imaging Systems, Inc.



### Scanning of Deed Books:

Listed below is the estimated volume of the Deed Books to be scanned:

6.5" x 11": 702,000 pages  
8.5" x 11": 409,500 pages

These Deed Book documents will be scanned in color @ 300 dpi duplex and indexed by the book title (#). The images will be placed in Digital Reel format and searchable via Book/Page, along with text based searching. The pages within the book will be scanned in the order received. All images will be OCR processed making the content of this material searchable. BMI does not guarantee or review the OCR results. BMI will provide the County with shipping boxes. The County will be responsible for loading the boxes and creating a spreadsheet of the contents of each box. Once the County has the documents boxed, we will be prepared to send our driver to pick up the material. This project is estimated to take 60 days to complete. While the documents are in our possession, BMI will provide an e-mail request system for the documents. We will provide the requested documents via e-mail within 24 hours of the request. We will also accommodate an urgent request if this situation arises.

Services	Quantity	Unit Price	Total Price
Document Scanning 6.5" x 11"	702,000	\$.06/page	\$42,120
Document Scanning 8.5" x 11"	409,500	\$.08/page	\$32,760
Document Preparation Services (removal of impediments, mending torn documents etc...)	445 Hours	\$35/hour	\$15,575
Pick-up and delivery of materials	2	\$500/event	\$1,000
<b>Project Total</b>			<b>\$91,455</b>

Blank back side images will be deleted (8k or less). The resulting images will be added to the hosted site for access by County staff. The monthly hosting fee will increase from \$100/month to **\$250/month**.

BMI will provide the existing functionality demonstrated and available to SLO staff on the hosted samples site. Below is a list of new items to be added by the end of the first quarter 2016:

- Ability to line through text
- Ability to type text on page
- Ability to modify font, size and color of text
- Addition of highlighter colors as was done in the Note feature

These additional features will be billed @ **\$3,000**.

Sales tax will be additional for all projects described herein where applicable.